

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

April 27, 2007

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 07od059

OAHU

Amend Prior Board Action of August 24, 2001, Item D-29;
Issuance of Lease to Yee Yuen Trust for Private
Noncommercial Pier Purposes Pursuant to Kaneohe Bay Piers
Amnesty Program, Kaneohe, Koolaulupoko, Oahu, Tax Map Key: (1)
4-5-104:022.

BACKGROUND:

On August 24, 2001, under agenda item D-29, the Board approved the issuance of leases to 150 applicants pursuant to the Kaneohe Bay Piers Amnesty Program. A copy of the 2001 approval is attached as Exhibit A. Subsequently, the Board granted similar approval for some late applications.

The subject parcel is encumbered by Revocable Permit No. 5418 to Mrs. Tung Hoy Yee for boat pier purpose. Before December 2005, she did not participate in the pier amnesty program, preferring to stay on the revocable permit. Mrs. Yee passed away in December 2005, and the family is planning to sell the private property abutting the pier. Meanwhile, they want to resolve the issue of the pier by requesting a lease for private noncommercial pier pursuant to the pier amnesty program. The applicants are aware of the sunset date of the program and have already hired a private land surveyor to prepare the map and description of the pier. Office of Hawaiian Affairs and Office of Conservation and Coastal Lands have no objections to the request.

APPLICANT:

Herbert W.F. Yee, William W.C. Yee, and Frances Yee Chinn, Trustees of Yee Yuen Trust, whose mailing address is 5323 Kilauea Avenue, Honolulu, Hawaii 96816-5614.

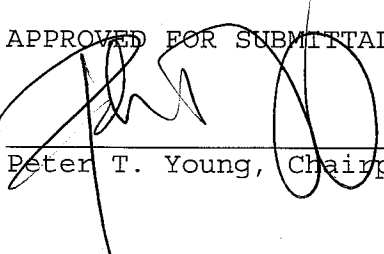
RECOMMENDATION:

That the Board amend its prior Board action of August 24, 2001, agenda item D-29, by adding Herbert W.F. Yee, William W.C. Yee, and Frances Yee Chinn, Trustees of Yee Yuen Trust to the list of approved applications.

Respectfully Submitted,


Barry Cheung
Land Agent

APPROVED FOR SUBMITTAL:


Peter T. Young, Chairperson

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

August 24, 2001

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

OAHU

Issuance of 150 Leases for Private Residential Noncommercial
Piers Pursuant to the Kaneohe Bay Piers Amnesty Program,
Kaneohe, Koolaupoko, Oahu; Various Tax Map Keys

APPLICANTS:

List of Applicants (Exhibit A) showing, to the best of our knowledge, the owners of the properties abutting the subject piers; provided that if, prior to execution of the lease document, an Applicant changes due to confirmation of the legal owners, transfer of interests in the abutting property or other reason, then the Board hereby approves such change and no further approval shall be required.

LEGAL REFERENCE:

Section 171-53(c), Hawaii Revised Statutes, as amended and Act 261, SLH 2000.

LOCATION:

Portions of submerged Government lands fronting the properties as shown on the attached map labeled Exhibit B1-B5.

AREA:

To be determined.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO x

CURRENT USE STATUS:

Other than those parcels encumbered by respective revocable permits as shown on Exhibit A, the rest of the parcels involved in this submittal are presently unencumbered land.

CHARACTER OF USE:

EXHIBIT "A"

Private residential noncommercial pier

LEASE TERM:

Fifty-five (55) years

COMMENCEMENT DATE:

July 13, 2001 for all leases as approved by the Board on July 13, 2001, Item D-32

CONSIDERATION:

ALTERNATIVE A:

One-time payment to be determined according to the appraisal methodology approved by the Board on February 23, 2001, Item D-7, subject to review and approval by the Chairperson; OR

ALTERNATIVE B:

Annual initial rent to be determined according to the appraisal methodology approved by the Board on February 23, 2001, Item D-7, subject to review and approval by the Chairperson and with rental reopenings on the 10th, 20th, 30th, and 40th years of the lease term; provided that for both Alternatives A and B:

- 1) If any Applicant is not willing to accept the approved appraisal methodology, consideration shall be determined by independent appraiser, subject to review and approval by the Chairperson; and
- 2) If the Attorney General determines that the Board, in converting existing revocable permits to long-term leases, can apply rent credit towards the payment of the long-term leases for past payments already made under the revocable permits, then the one-time payment for existing permittees who are converting to leases shall be reduced by the amount of rent paid under the existing revocable permit. (Staff notes the AG opinion request was sent to AG's on July 25, 2001; no response has been received as of August 15, 2001.)

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

CDUA Permit OA-3017B covering the piers under Kaneohe Bay Pier Amnesty Program was approved by the Board at its meeting of July 13, 2001 under Agenda Item D-32.

DCCA VERIFICATION:

Most of the applicants shown on Exhibit A are individuals, and the DCCA verification process is not applicable to them. For cases where Applicants are in the name of a corporation, staff will confirm their status via the DCCA website.

APPLICANT REQUIREMENTS:

Applicants shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicants' own cost;
- 2) Pay for an appraisal to determine one-time payment where an Applicant is not willing to accept the appraisal methodology approved by the Board.

BACKGROUND:

On May 15, 1998 under agenda Item D-3, the Board of Land and Natural Resources (Board) approved a plan to address the problem of unauthorized piers in Kaneohe Bay. The problem of illegal piers in Kaneohe Bay has persisted for decades. The goal of what is called the Kaneohe Bay Amnesty Program is to provide owners of illegal piers with the required permits to achieve compliance with the State's land use laws and, ultimately, resolve the illegal pier problem in Kaneohe Bay.

To help facilitate this program, Act 261, SLH 2000, was enacted to allow the Board to lease by direct negotiation submerged lands for private residential noncommercial piers. This Act also deleted the requirement to post signs on piers to allow for public use and eliminated the requirement to obtain prior approval of Governor and Legislature for the leasing of noncommercial piers.

On February 23, 2001, under Agenda Item D-7, the Board approved the appraisal methodology to determine the lease rental rates for private, non-commercial residential piers at Kaneohe Bay.

On July 13, 2001, under agenda item D-32, the Board approved the Conservation District Use Application (CDUA) for the Kaneohe Piers Amnesty Program subject to 11 specified conditions (see Exhibit C). Further, the Board amended staff's recommendation by adding the following:

- 1) All pier leases shall commence on July 13, 2001. The Department will stop billing the owners currently on revocable permits who are participating in the Amnesty Program;
- 2) Staff shall request an opinion from the Attorney General on whether the Board may provide credit to the owners of piers who have been making rental payments (under revocable permits) and are in good standing;
- 3) Pier owners shall have one year from the Board's action to complete all matters relating to the execution of a lease, or by July 13, 2002, including submission of maps, liability insurance, performance bond and payment of the rental under the lease;
- 4) Pier owners who are not participating in the Amnesty Program shall have 90 days from July 13, 2001 to apply for the program. If the Department does not receive an application to participate in the program, the Department will remove the piers at the owner's expense.

OVERALL PROCESS

Staff sent out about 230 letters to pier owners in the Kaneohe Bay area according to data collected in prior years. This letter explained the Amnesty Program and included an application form for the owners to complete. At the time of the writing of this submittal, 150 pier owners have agreed to participate in the Amnesty Program. About 40 other owners responded and have chosen not to participate for reasons such as "would like to stay on revocable permit," "pier is not on State land," "do not have a pier," "have a Department of Transportation (DOT) permit."

Staff intends to process the piers in Kaneohe Bay according to the flowchart attached as Exhibit D.

GROUP A: Owners who respond by the deadline established by the Board (October 13, 2001) and who want to participate in the Amnesty Program. The process of lease documentation is provided on page 2 of flowchart. If at any time during the process, the Applicant does not submit a required item (e.g., survey maps, consideration, fees, tax clearances, etc.), we are requesting the Board delegate the authority to the Chairperson to rescind approval of the pier lease for those Applicants.

GROUP B: Owners who responded that they do not have a pier. Staff will confirm with a site inspection. If a pier is found, the owner shall be put into Group G.

GROUP C: Owners who responded that their pier is not on State land. Staff will confirm. If the pier is on State land, the owners will have the opportunity to obtain a lease through the Amnesty Program if Act 261, SLH 2000 has not sunsetted.

GROUP D: Owners who responded that they would like their piers removed. Staff will follow-up to remove the pier, including researching building permit records and other available information. If the records show the pier was built under the current owner, such owner will be charged for the full cost of removal.

GROUP E: Owners who responded that they would like to remain on their DOT permit. The DOT permit is a legal disposition of public lands by the State government. As such, no further action is required by staff. Staff has been confirming DOT permits (actual copies of the DOT permits must be provided) and advising permit holders that they will be required to keep their piers open to the public ("no trespassing" signs are not allowed) and that obtaining liability insurance may be difficult or expensive due to this requirement.

GROUP F: Owners who responded that they want to remain on their revocable permits. These owners have existing revocable permits. Because these permittees have been

legal, staff is recommending that they be allowed to choose whether to convert their permits to leases. Staff is recommending, however, that no further revocable permits be issued for non-commercial piers. As a result, if the current owners transfer their properties in any way, the new owners would be required to obtain a pier lease, including submitting a Conservation District Use Application (CDUA). If this transfer occurs after the sunset date of Act 261, then they will also be required to obtain legislative authorization.

GROUP G: Owners who did not respond by the October 13, 2001 deadline or who have otherwise defaulted into this group from another group. Staff will follow-up including conducting inspections, imposing fines and/or removing piers. Similar to Group D, staff will research building permit records and other available information. If the records show the pier was built under the current owner, such owner will be charged for the full cost of removal.

Anyone building a new pier (i.e., pier built after July 13, 2001) will be required to submit a CDUA and may apply for a pier lease under Act 261 up to its sunset date.

Anyone requesting a pier lease after the sunset date of Act 261 will be required to obtain legislative authorization and submit a CDUA.

Staff sent letters on or around July 25, 2001 to each of the different groups clarifying the above instructions. For those who had not responded, the letter stated the deadline set by the Board and the consequences if no response is received.

GROUP A DISPOSITION PROCESS

The disposition process of the pier leases is depicted on Page 2 of Exhibit D. Staff highlights the following:

- Step 3: The Applicant will be required to submit private CAD survey maps; instructions on the Department of Accounting and General Services (DAGS), Survey Division standards will be provided in the notification letter of the Board results.
- Step 5: The private survey maps will be sent to DAGS Survey Division for creation of a CSF map. Alternatively, if DAGS is unable to handle the volume of this project, we may use the private survey map.
- Step 7: If encroachments are found during the verification of the maps and description by DAGS Survey Division, we will halt the disposition of the pier until resolution of such encroachments. As shown on Page 3 of the flowchart, the owner will have the option of removing the encroachment or applying for an easement. Any such application will be referred to the Coastal Lands

Program (CLP) for analysis on a case-by-case basis of whether an easement should be granted. Depending on the CLP's analysis, the encroachment will be resolved by either removal or issuance of easement covering the encroachment as may be approved by the Board. Staff will recommend fines for any encroachments as is the standard procedure. Once the encroachments are resolved, the lease of the pier will be processed.

Step 14: As mentioned earlier under Group A, if at any time during the process, the Applicant does not submit a required item (e.g., survey maps, consideration, fees, tax clearances, etc.), we are requesting the Board delegate the authority to the Chairperson to rescind approval of the pier lease for those Applicants.

AGENCY/COMMUNITY COMMENTS

A public hearing was held on February 27, 2001 for the master CDUA covering the Amnesty Program. Questions regarding the disposition, e.g., methodology for determining the rent, liability insurance and land surveyor cost were answered by the staff at the meeting. The pier owners were informed that the subject submittal and the boilerplate for the lease are posted on the website of the Land Division. Staff believes community concerns, so far expressed, have been adequately addressed. At this point, the only continuing concerns are from Mr. Alvin Maeda (refer to Exhibit E for his latest correspondence). Staff believes his concerns in this letter have been appropriately addressed in this submittal.

The proposed use under the subject submittal is not different from the existing use, whether legal or illegal pier. Therefore, staff did not solicit comments from other agencies separate from the CDUA process.

APPLICANT QUALIFICATION:

Staff will confirm that the Applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

PROPOSED PROVISIONS OF THE STANDARD KANEOHE BAY PIER LEASE:

Survey maps and descriptions - Normally, an applicant for a lease is required to submit privately-prepared maps and descriptions which are used by DAGS Survey Division to prepare a CSF map and description which are used as the legal description in the document. In view of the large number of cases in Kaneohe Bay piers and their heavy workload, the Survey Division may not be able to promptly process all of the CSF maps before the sunset date of Act 261. Further, where encroachments are found and the Board grants approval for an easement, additional maps and descriptions will be required burdening the Survey Division with even more work. Staff has been in discussion with the Survey Division to address this potential backlog. DAGS is attempting to increase their staff to be able to handle this workload.

However, if these plans should fall through, we may need to use the maps prepared by the private surveyor hired by the applicant as the legal description to meet the sunset date of Act 261. Staff will take steps to reduce the errors in the maps. If errors are found after the execution of the legal document, a lease amendment will be required.

Liability insurance - The standard coverage amounts for term easements for encroachments are \$300,000 for each occurrence and \$500,000 aggregate which staff is recommending for the pier leases.

Performance Bond - Staff has identified two alternatives on the issue of whether to impose a performance bond.

On the one hand, one may argue that a bond is needed to ensure the performance of the lessee, particularly with regard to obtaining insurance (or rent, if paid annually). If the lessee should default and the lease is cancelled, the State has little recourse to ensure removal of the pier, except through court action. Staff did recommend the performance bond requirement on the issuance of a Kaneohe Bay pier lease approved by the Board on April 12, 2001, under Item D-2. The applicants needed a shoreline certification for a building permit, and they were the first approval of a pier lease under the Amnesty Program. The Board approved staff's recommendation to require a performance bond based on the estimated demolition cost of the pier.

On the other hand, staff recently recommended changes to the boilerplate easement document. In the absence of a performance bond and to ensure that the State has recourse to require removal of the improvements and/or satisfactory restoration of the premises where an easement is terminated, the following changes to the Surrender provision were made to encroachment easement documents:

"10. The Grantee shall, at the end of the term or other sooner termination of this easement, peaceably deliver unto the Grantor possession of the premises, together with all improvements existing or constructed thereon or Grantee shall remove such improvements and shall restore the premises to its original state, or as close thereto as possible, within a reasonable time and at the expense of the Grantee, at the option of the Grantor. If the Grantee does not remove the improvements or restore the premises to the satisfaction of the Grantor, the Grantor may effect such action and the Grantee agrees to pay all costs and expenses for such action. Furthermore, upon the expiration, termination, and/or revocation of this easement, should the Grantee fail to remove any and all of Grantee's personal property from the premises, after notice thereof, the Board may remove any and all of Grantee's personal property from the premises, and either deem the property abandoned and dispose of the property or place the property in storage at the cost and expense of Grantee and the Grantee does agree to pay all costs and expenses for disposal, removal, or storage of the personal property. This provision shall survive the termination of the easement."

Staff is comfortable with this amended language where payments

are one-time since the only critical ongoing performance issue is insurance. Where an Applicant chooses to pay annually, however, staff feels that a performance bond would be appropriate.

Mutual termination - We are recommending that the lease include a provision to allow for mutual termination. This provision would allow the lessee to terminate the lease by giving 30 days notice where removal is desired by the lessee.

Surrender - We are recommending Standard term upon surrender, e.g. remove the pier at the option of the lessor, will ensure the area involved returned in a clean and orderly manner. For the standard lease condition, the rental may be adjusted taken into account of the area withdrawn for public purposes. However, if the lessee wants to terminate the pier lease, the area previously covered by the pier is not going to be used for a specific public purpose. Staff thinks no compensation should be payable to the lessee if the lessee decides to exercise this clause. The lessee will not be required to procure liability insurance for the pier lease upon termination.

Apart from the above mentioned, the lease will use the standard terms and conditions of the most current lease form, as may be amended from time to time.

PREVIOUS KANEOHE BAY APPROVALS:

Staff notes that the Board has already approved a handful of leases for piers in Kaneohe Bay. These actions were expedited because the Applicants needed a shoreline certification for a building permit and the pier or other encroachment impeded this certification. For these actions, the Board authorized a deposit of the estimated lease or easement cost to ensure the Applicant fully executed the document(s). Staff is requesting the Board grant a blanket amendment to all of these previous submittals to ensure conformance with the terms and conditions as outlined in this submittal, except for the collection of the deposit upfront.

RECOMMENDATION: That the Board:

1. Subject to the Applicants fulfilling all of the Applicant requirements listed above, authorize the issuance of fifty-five (55) year leases to the Applicants under the terms and conditions cited above which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the Kaneohe Bay lease form, as may be amended from time to time;
 - b. Applicants shall comply with all of the conditions stated in CDUA OA-3017B as approved by the Board on July 13, 2001 under Agenda Item D-32;
 - c. Performance bond shall be required for Applicants who pay annually; no performance bond shall be required for Applicants who pay one-time;
 - d. Mutual termination shall be allowed with no

compensation;

- e. Review and approval by the Department of the Attorney General; and
 - f. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- 2. Authorize the Chairperson to rescind this action for any Applicant who has been unresponsive in submitting required items, as determined by staff.
 - 3. Authorize the amendment of any and all prior Board actions from April 12, 2001 on for which the Board approved the issuance of a pier lease in Kaneohe Bay so that the terms and conditions of such lease conforms to those established in this action of August 24, 2001, except for the collection of any deposit upfront.

Respectfully Submitted,

Barry Cheung
Project Development Specialist

APPROVED FOR SUBMITTAL:

GILBERT S. COLOMA-AGARAN, Chairperson

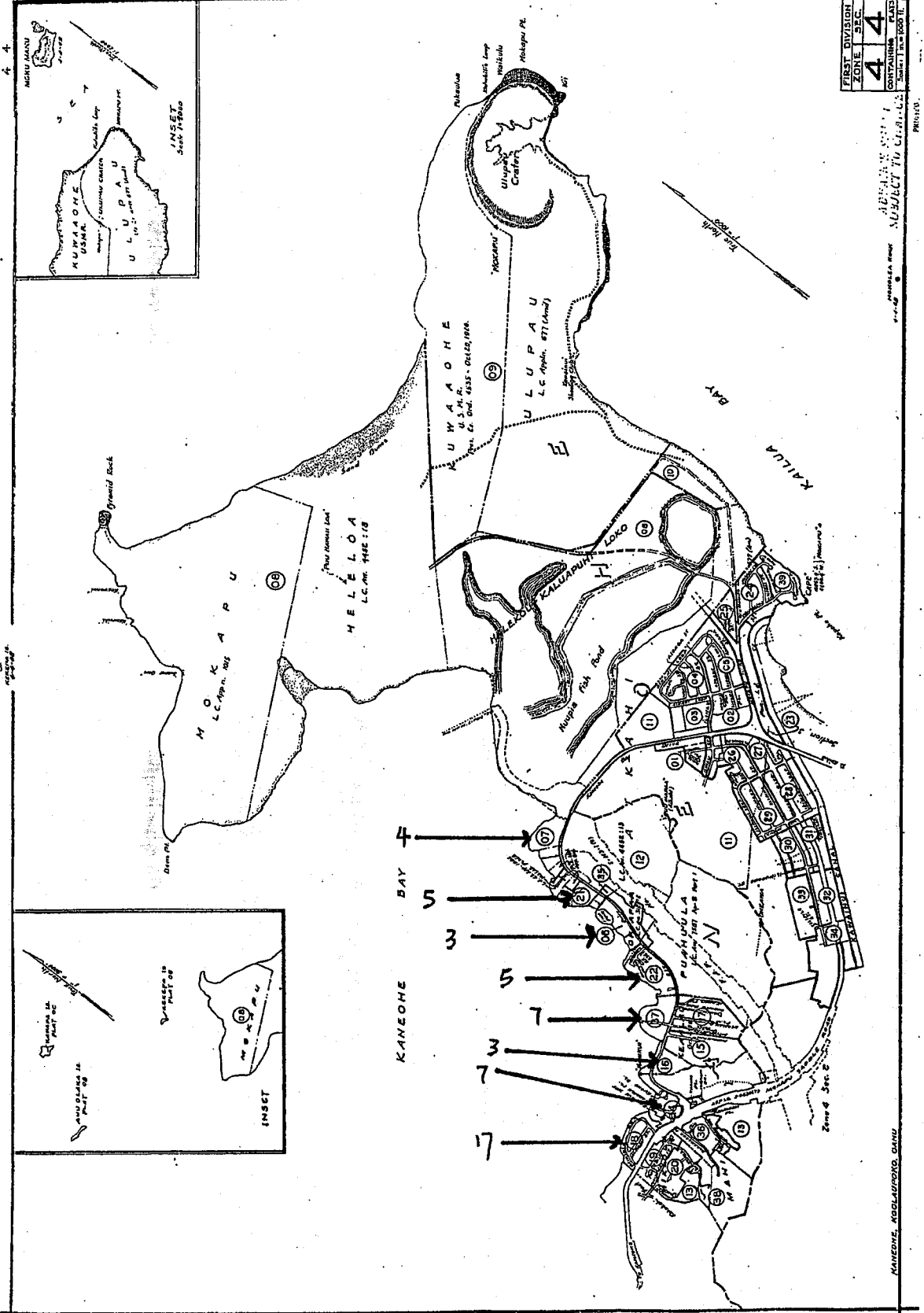
No.	TMK	Applicant names shown on the application form
1.	4-4-006:008	Barbara & Richard Littenberg, as Trustees of Qualified Personal Residence Trust dated 5/21/99
2.	4-4-006:012	Colene Smith Wong, as Trustee of the Colene S. Wong Revocable living Trust dated 3/22/89
3.	4-4-006:014	Wilfred Yoshito Horie & Renee Tsubota Horie
4.	4-4-007:017	Roger W. Buecher, Trustee of the Roger W. Buecher Revocable Trust dated 2/28/92 and Sheryl E. Buecher, Trustee of the Sheryl E. Buecher Revocable Trust dated 2/28/92
5.	4-4-007:024	Robert H. & Kelly R. Armstrong
6.	4-4-007:038	Nathan & Corinne Shulman
7.	4-4-007:039	44-315 Kaneohe Bay Drive Owners Association
8.	4-4-014:001	Barbara C. Wong, as Trustee of the Barbara C. Wong Revocable Living Trust dated 4/21/83
9.	4-4-014:004	Nancy W. Nottage, trustee of the Nancy W. Nottage Revocable Living Trust dated 5/13/97
10.	4-4-014:011	David Gilman Nottage Jr. & Nancy W. Nottage
11.	4-4-014:026	David Y.F. Lung & Ruth C. Lung
12.	4-4-014:027	Joseph S. Gibbs and Shirley B. Gibbs, Co-Trustees of Bay View Realty Trust dated 12/14/90
13.	4-4-014:052	Raynette Lum Wayland & Lizzy Lum (life interest)
14.	4-4-014:058	Stratford L. Whiting, Trustee of Stratford L. Whiting Revocable Living Trust dated 2/9/93 & Anita B. Whiting, Trustee of Anita Berg Whiting Revocable Living Trust dated 2/9/93
15.	4-4-016:010	First Hawaiian Bank, Trustee of the F. Hedemann Trust
16.	4-4-016:014	Agnes K. Y. Emerson
17.	4-4-016:017	Edward K. Yamashiro, Trustee of Edward Komei Yamashiro Trust dated 10/21/80 as amended; Yoshiko Yamashiro Trustee of the Yoshiko Yamashiro Trust dated 10/21/80, as amended and Byron K. Yamashiro
18.	4-4-018:069	Yoshiko Yamashiro, Trustee of Yoshiko Yamashiro Trust dated 10/21/80, as amended and Byron K. Yamashiro, Aaron K. Yamashiro, Clyde K. Yamashiro, Dwight K. Yamashiro, Lisa Ann T. Tanaka and Patricia K. Yamashiro-Hironaka
19.	4-4-018:070	Charles K. Jr. & Noelani M. Keliikipi
20.	4-4-018:071	Louise Eulalia & Clyde Harold Hedlund
21.	4-4-018:072	Estate of Mable G.L. Wong
22.	4-4-018:073	Edward K. Yamashiro, Trustee of Edward Komei Yamashiro Trust dated 10/21/80 as amended; Yoshiko Yamashiro Trustee of the Yoshiko Yamashiro Trust dated 10/21/80, as amended
23.	4-4-018:074	Dorothy S. Nakama, Miles J. Nakama, Michael K. Nakama, Sandy K. Ito
24.	4-4-018:076	Thomas Mitsuto Tanaka & Cladys Chisato Tanaka, Co-Trustees of Joint Revocable Living Trust dated 6/16/2000
25.	4-4-018:077	Herbert Ken Tom
26.	4-4-018:078	Sharon Jan Lowrie & Randall Lee Erickson
27.	4-4-018:079	Dexter Yamada
28.	4-4-018:080	Francis I. & Joyce E. Tsuzuki
29.	4-4-018:083	Hiroyuki & Mabel M. Watanabe
30.	4-4-018:084	Dennis H. & Lisa Ann T. Tanaka

No.	TMK	Applicant names shown on the application form
31	4-4-018:085	Harris H. & Diane M. Hara
32	4-4-018:086	Aileen S. Kitaoka-Yee, Trustee under that Trust Agreement dated 2/25/1991, made by Aileen Yee Kitaoka as Settlor
33	4-4-018:105	Ronald Wing Yin Yee
34	4-4-018:106	Patricia Watanabe
35	4-4-021:011	BJ Management Corp
36	4-4-021:023	Richard Henry & Corinta B. Pohle
37	4-4-021:033	Lloyd K. Komagome, as Trustee of the Lloyd K. Komagome Revocable Living Trust dated 5/25/94 and Diana Lee Komagome, as Trustee of the Diana L Komagome Revocable Living Trust dated 6/4/94
38	4-4-021:036	David Stoutemyer & Karen Lee Stoutemyer
39	4-4-021:050	Joann B. Best, Trustee
40	4-4-022:008	Peter & Elizabeth Stone
41	4-4-022:009	James K. Kobatake, Trustee of Gilbert D. Kobatake Trust
42	4-4-022:010	John Cornwell Walker Jr. & Marion Makin Walker
43	4-4-022:033	Mary L. Protheroe, Trustee of Mary L. Protheroe Revocable Living Trust
44	4-4-022:036	Charles Douglas Peebles
45	4-4-037:002	Robert L. Reed
46	4-4-037:004	Lyle Yoshio Hamasaki & Renee Charla Wai Sen Yim
47	4-4-037:020	Peter B. Nottage, Trustee of Peter B. Nottage Revocable Living Trust & Lois C. Nottage Revocable Living Trust dated 1/9/87
48	4-4-037:021	Charles Michael Gilbert, Trustee of Charles Michael Gilbert Revocable Living Trust dated 5/25/94
49	4-4-037:033	Frank H. Barton, Trustee under that certain Trust Agreement dated 1/10/86 & Elsie M. Barton, Trustee under that certain Trust Agreement dated 1/10/86
50	4-4-037:035	Patricia Brian Hoff
51	4-4-037:048	Concetta I. Pico
52	4-5-001:014	Dorothy L. Gilbert, Trustee of Francis M.G. Gilbert Trust
53	4-5-001:015	Benedict R. Wong
54	4-5-001:017	Clyde K. Yoshioka, Trustee of Clyde K. Yoshioka Revocable Living Trust dated 7/8/83
55	4-5-001:018	Paul T. Noto, Trustee of Paul T. Noto Revocable Living Trust dated 11/2/00 and Teruko Noto, Trustee of Teruko Noto Revocable Living Trust dated 11/2/00
56	4-5-001:020	James Sadao Togami Trustee of James Sadao Togami Trust dated 1/28/94 & Milfred Masako Togami, Trustee of Milfred Masako Togami Revocable Living Trust dated 1/28/94
57	4-5-001:027	Edith H. Grote, Trustee of the Edith H. Grote Trust dated 3/3/99
58	4-5-001:029	Janet Chun Yee & Jennie Yee Lau, Trustees for Children UA Trust dated 12/15/71
59	4-5-001:030	Charles E. Stone III, Louise P. Wolcott, Mary J. Christensen & Elizabeth A. Stone
60	4-5-001:037	Kaylene K.S. Yamada, Trustee of Violet Y.C. Chun Trust dated 8/2/89
61	4-5-001:108	Henry S. McCoy Jr, Susan N McCoy & Robert M. Fox
62	4-5-006:005	Habilitat Inc.

No.	TMK	Applicant names shown on the application form
63	4-5-047:044	Linda K. Roschill, Trustee of the Linda K. Roschill Revocable Living Trust dated 8/29/89 & Jack Huizingh, Trustee of Jack P. Huizingh Revocable Living Trust dated 8/29/89
64	4-5-047:047	Kyoko Zaha, Trustee of Kyoko Zaha Revocable Living Trust dated 6/30/92
65	4-5-047:049	Ralph J. & Margaret M. Kiessling
66	4-5-047:051	Francis Goffredo & Veronica Anaya
67	4-5-047:056	Michael G. Jacobs, Trustee of the Michael G. Jacobs Revocable Living Trust dated 8/29/96
68	4-5-047:080	Annie C. & Wayne Douglas St. Morris
69	4-5-047:083	Victor Fagerroos Trust dated 11/2/89
70	4-5-047:090	Everett V. Freeman
71	4-5-047:094	Mario Valdastrri Jr. & Patricia A. Valdastrri, Trustees
72	4-5-047:116	Sarajejan A. Tokunaga Trust
73	4-5-047:119	Joseph Fah & Janet Yuriko Chun
74	4-5-047:120	Edwin N. Tasaki
75	4-5-047:129	Richard J. Gallimore
76	4-5-053:053	George A. & Gail A. Morris, Trustee
77	4-5-053:054	Archie K. & Jeanette Y. Komae
78	4-5-058:017	Alvin Hisashi Maeda & Anne Ohki Maeda, Co-Trustees of Alvin & Anne Maeda Revocable Living Trust dated 5/8/87
79	4-5-058:018	Bryan Keolanui Kau & Kellie Leimi Inouye
80	4-5-058:020	Michael David Thomson & Valerie Yvonne Thomson
81	4-5-058:021	Dagmar L. Kau, Trustee for the Dagmar L. Kay Revocable Living Trust dated 7/17/76
82	4-5-058:022	Edward Cassidy
83	4-5-058:023	Henry Park Sr.
84	4-5-058:024	Stanley M. Miura, Ritsuko Miura & Winifred T. Miura
85	4-5-058:025	Roy Shinichi Yanagihara, Linda Yukiko Yanagihara & Mildred Mitsue Yanagihara
86	4-5-058:026	Robert & Rachel L. Lai, Trustees of the Robert & Rachel L. Lai Revocable Living Trust dated 6/5/89
87	4-5-058:027	Lenny S. Kawelo & Therese A. Kawelo
88	4-5-058:029	Richard K.S. Pang, Trustee of the Richard K.S. Pang Revocable Living Trust dated 7/15/93
89	4-5-058:031	Winifred T. O'Rourke
90	4-5-058:034	Stanley T. Holt, Trustee of the Stanley T. Holt Revocable Living Trust dated 3/6/86 & Eloise E. Holt, Trustee of the Eloise E. Holt Revocable Living Trust dated 3/6/86
91	4-5-058:035	James Y. Kanada, Trustee of James Y. Kanada Revocable Living Trust dated 4/5/94
92	4-5-058:038	Richard B. Sweet Sr. Trustee of the Richard Bayliss Sweet Revocable Living Trust dated 4/25/2000 & Eula May Sweet, Trustee of the Eula May Sweet Revocable Living Trust dated 4/25/2000
93	4-5-058:039	Roy F. Kuboyama
94	4-5-058:041	Hajime & Tokuko Asanoma
95	4-5-104:023	Sharon Hiona

No.	TMK	Applicant names shown on the application form
96	4-5-104:024	Kaoru & Kazuye Matsuega
97	4-5-104:045	YWCA of Oahu
98	4-6-001:003	Siegfried Schuster, Trustee under that certain Trust Agreement dated 12/19/91 & Toshiko Schuster, Trustee under that certain Trust Agreement dated 12/19/91
99	4-6-001:007	Geoffrey Hamilton
100	4-6-001:009	Richard H. Van Horn, Trustee of the Richard Hunt Van Horn Revocable Living Trust dated 9/14/81 & Noreen Mau Van Horn, Trustee of Noreen Mau Van Horn Revocable Living Trust dated 9/14/81
101	4-6-001:010	Takasagoden U.S.A. Inc
102	4-6-001:013	Joseph Patrick O'Reilly, Trustee of the Joseph Patrick O'Reilly Revocable Living Trust dated 12/14/93 & Katherine Anne O'Reilly, Trustee of the Katherine Anne O'Reilly Revocable Living Trust dated 12/14/93
103	4-6-001:018	Alfred E. Anderson, Trustee of Alfred E. Anderson Living Trust dated 11/11/91 & Pearl T. Anderson, Trustee of Pearl T. Anderson Living Trust dated 11/11/91
104	4-6-001:022	Richard T. Kozuma
105	4-6-001:023	Marcus Drake Elama Rosehill
106	4-6-001:024	David Shiroma & Betty T. Shiroma, Trustees
107	4-6-001:029	Otome M. Myers, Trustee of the Otome M. Myers Revocable Living Trust dated 5/13/92
108	4-6-001:031	James D. & Carol A. Cook
109	4-6-001:063	Nahoahana O'Huelani LLC
110	4-6-003:036	Evans H.M. Yim & Barbara L.M. Yim, Trustees
111	4-6-003:077	Margaret M. Ciupak, Trustee of Margaret M. Ciupak Trust dated 3/25/93
112	4-6-003:087	James Tsuyoshi Fujioka, Trustee of the Marian Kikue Fujioka Revocable Living Trust dated 6/10/98
113	4-6-003:089	Harold L. Rice & Muk Lan Leung Rice
114	4-6-022:002	Yudo Yamamoto
115	4-6-022:022	Ceccarelli Martial Trust dated 4/13/92
116	4-6-022:024	William D. Drake
117	4-6-022:026	Robert G. & Ray Jen Sawinski, Trustees of Robert G. and Ray Jen Sawinski Revocable Living Trust dated 4/18/96
118	4-6-023:048	Lance Shigeru Terayama, Trustee of Lance Shigeru Terayama Revocable Living Trust dated 9/9/93 & Sandra Yuri Terayama, Trustee of the Sandra Yuri Terayama Revocable Living Trust dated 9/9/93
119	4-6-023:049	Harry H. Yamada, Trustee of the Revocable Living Trust dated 12/8/94 amended 7/18/2000 & Florence F. Yamada, Trustee of the Revocable Living Trust dated 12/8/94 amended 7/18/2000
120	4-6-023:051	Dennis D. & Nancy C. McCann
121	4-7-009:002	Wayne K. Parker
122	4-7-009:016	Stanley K. McCabe
123	4-7-010:034	Frank Ryder Jr., Trustee of the Frank Ryder Jr. Semi-Revocable Living Trust dated 11/18/92 & Miriam L. Ryder, Trustee of the Miriam L. Ryder Semi-Revocable Living Trust dated 11/18/92

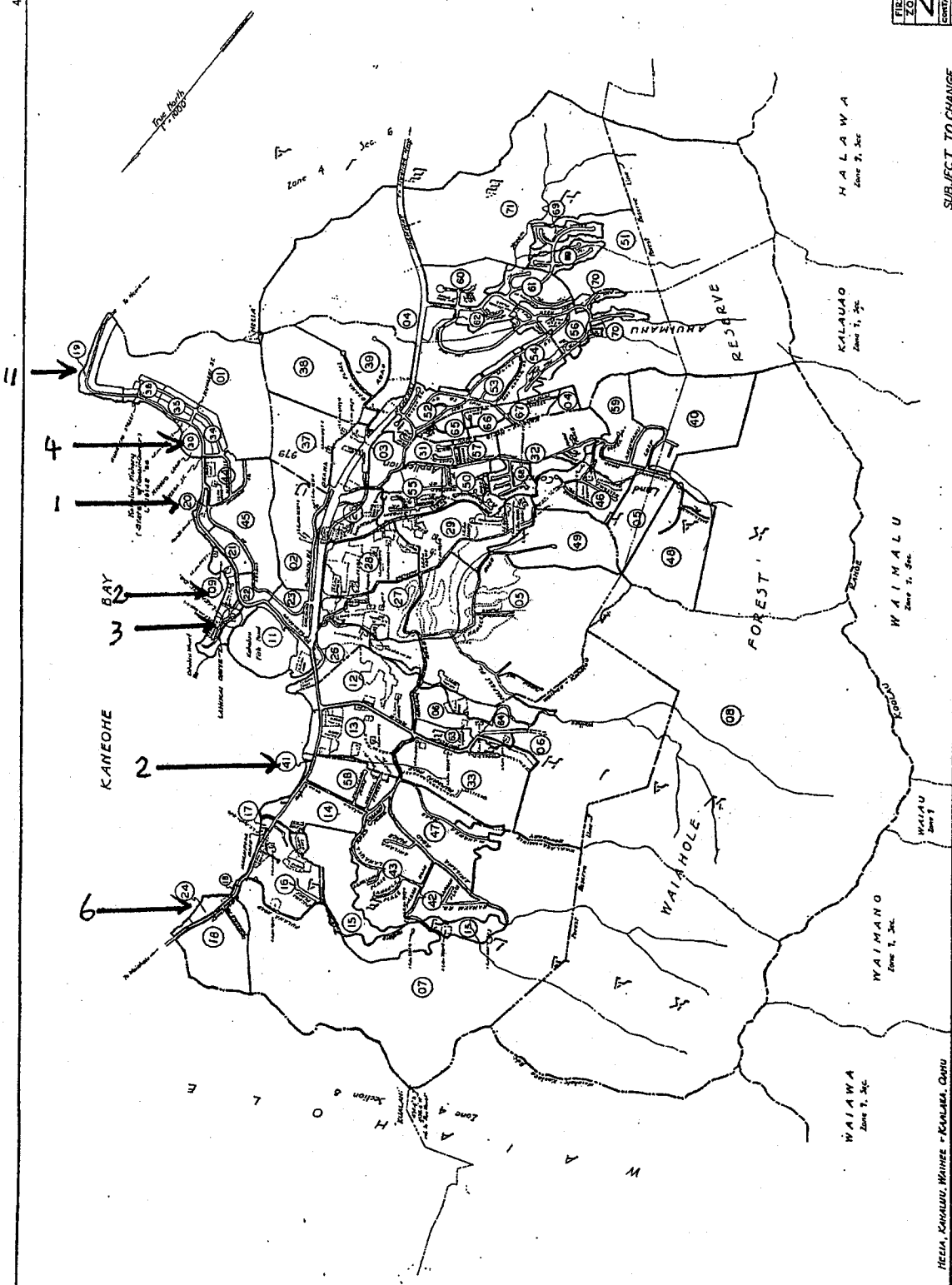
No.	TMK	Applicant names shown on the application form
124	4-7-010:040	John Thomas
125	4-7-010:045	Robert M. Fox
126	4-7-019:008	Norman Kato, Trustee of the Norman Kato Revocable Living Trust dated 6/29/88 & Norman Kato II, Trustee of Yama Arashi Trust
127	4-7-019:016	Rose C. Au Hoy, Trustee of the Rose C. Au Hoy General Revocable Trust Agreement dated 5/2/91
128	4-7-019:022	David Imata, Trustee of Bessie T. Imata Revocable Living Trust
129	4-7-019:024	Harold Raymond Sharrer & Julie Yvonne Sharrer
130	4-7-019:028	Benjamin Keao Pamatigan
131	4-7-019:034	Philipp Mutzel Steingraeber & Marie Dee Kastensmith
132	4-7-019:041	Russell M. Yett
133	4-7-019:044	John D. Perry, Trustee of John Donald Perry Revocable Living Trust dated 2/9/93
134	4-7-019:059	Winona S.H. Stevens, Trustee of Winona S. H. Stevens General Revocable Trust dated 8/15/91
135	4-7-019:067	Julieann Piikea & Clifford Kala'i Miller
136	4-7-019:073	LQTCP L.P.
137	4-7-020:019	George C. & Colleen R. Meyer
138	4-7-024:018	Jacob C.F. Hee Revocable Living Trust dated 3/18/92
139	4-7-024:021	Kirby W.K. Loo, Trustee for the Kirby W.K. Loo Trust dated 3/15/83 & Laura C. Loo, Trustee of Laura C. Loo Trust dated 3/15/83
140	4-7-024:022	Deen I. & Annette M. Morita
141	4-7-024:026	Michael J. Suchomel
142	4-7-024:027	Craig Tsugio Nakamura
143	4-7-024:029	Joseph J. Phillips Jr. Revocable Living Trust dated 10/5/87 & Stephanie J. Phillips Revocable Living Trust dated 10/5/87 and Joseph J. Phillips Jr. GST Exempt Trust dated 9/26/97
144	4-7-030:001	Samuel & Anastasia Makua Revocable Trust dated 12/29/88
145	4-7-030:015	Frank Edward & Abigail Ruby Medrano
146	4-7-030:019	Burt T. Kaminaka & Miriam K. Kaminaka, Trustee of the Burt T. Kaminaka Trust dated 8/3/98
147	4-7-030:020	Alvin Mon Wo Lum & Jane Nung Ven Lum, Trustee of that certain Trust Agreement of Alvin Mon Wo Lum dated 6/25/97; Jane Nung Ven Lum & Alvin Mon Wo Lum, Trustee of that certain Trust Agreement of Jane Nung Ven Lum dated 6/25/97; Wallace Hong Quon Lum and Sheila Lai Chun Lum, as Trustees of that certain Trust Agreement of Wallace Hong Quon Lum dated 6/13/97; Sheila Lai Chun Lum & Wallace Hong Quon Lum, as Trustees of that certain Trust Agreement of Sheila Lai Chun Lum dated 6/13/97
148	4-7-041:007	Peter A. Aduja & Melodie C. Aduja
149	4-7-041:009	Larry Anthony Lopez & Teckla Eleanor Lopez as Trustees of the Larry Anthony Lopez & Teckla Eleanor Lopez Revocable Living Trust dated 9/13/99
150	4-9-003:002	John Daniel Morris & Moana Rae Morris, Trustees of the J. & M. Morris Family Trust dated 12/27/95



5 →

No. of cases in the plat

EXHIBIT B 1



PLAT DIVISION	ZONE 4	SEC 7
CONTAINING PLATS	1-1000	

SUBJECT TO CHANGE

No. of cases in the plat

4

August 24, 2001

Conditions approved by the Board of Land and Natural Resources for the Conservation District Use Application for the Kaneohe Bay Pier Amnesty Program at its meeting of July 13, 2001, Item D-32

1. The pier owners shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, State and county governments, and the applicable parts of Section 13-5-42, HAR;
2. The pier owners, their successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, their successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. The pier owners shall comply with all applicable Department of Health administrative rules;
4. Before proceeding with any repair work authorized by this approval, the pier owner shall submit four copies of the construction plans to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three copies will be returned to the pier owner. Plan approval by the Chairperson does not constitute approval required from other agencies;
5. All mitigation measures set forth in the master application materials and in the Final Environmental Assessment for this project are hereby incorporated as conditions of the permit;
6. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the pier owner shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
7. The pier owners understand and agree that this permit does not convey any vested rights or exclusive privilege;
8. Pier owners with unauthorized piers, who have not yet made application for inclusion in the amnesty program and who wish to participate in same, shall make formal application to the Department's Land Division within 90 days of the approval of this

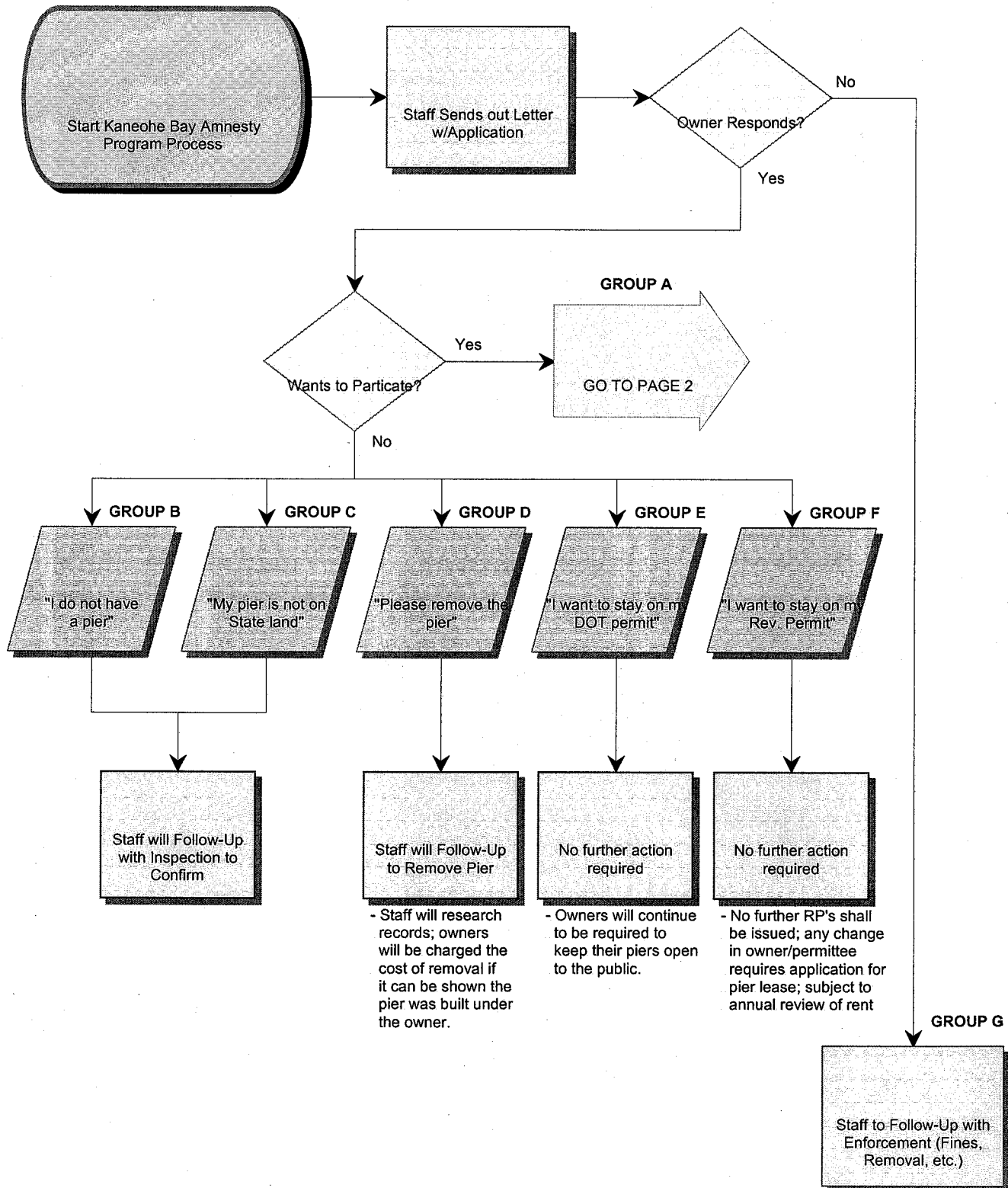
August 24, 2001

application; failing to do so within the 90 days will result in the Department removing the pier at the pier owners' expense;

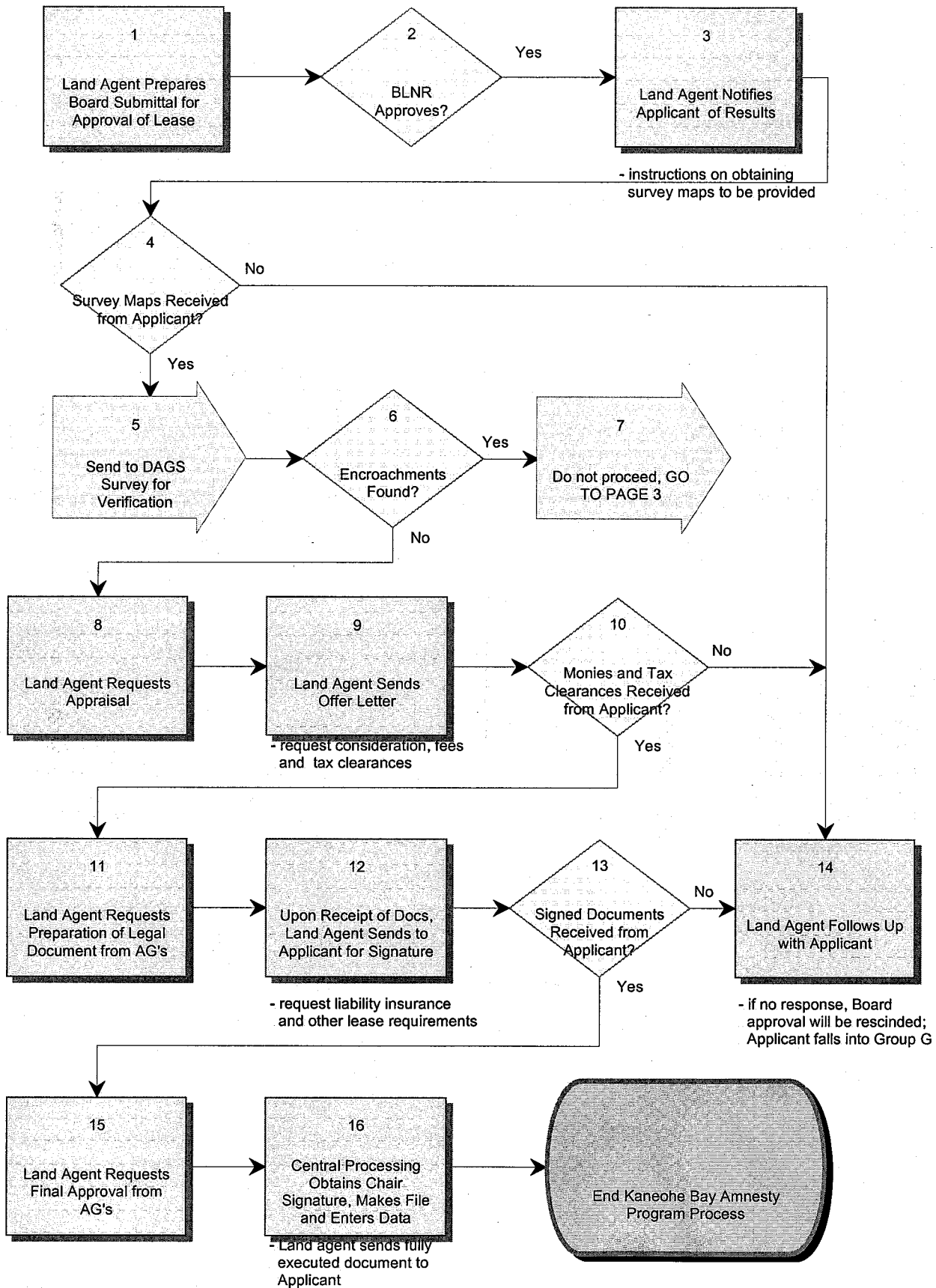
9. In the event that unrecorded historic remains (i.e., artifacts, or human skeletal remains) are inadvertently uncovered during repair or operations, all work shall cease in the vicinity and the pier owner shall immediately contact the State Historic Preservation Division;
10. Pier owners who require a lease from the State shall obtain a land disposition form from the Oahu District Land Agent for the use of State land; and
11. Other terms and conditions as may be prescribed by the Chairperson; and

Kaneohe Bay Amnesty Program Process

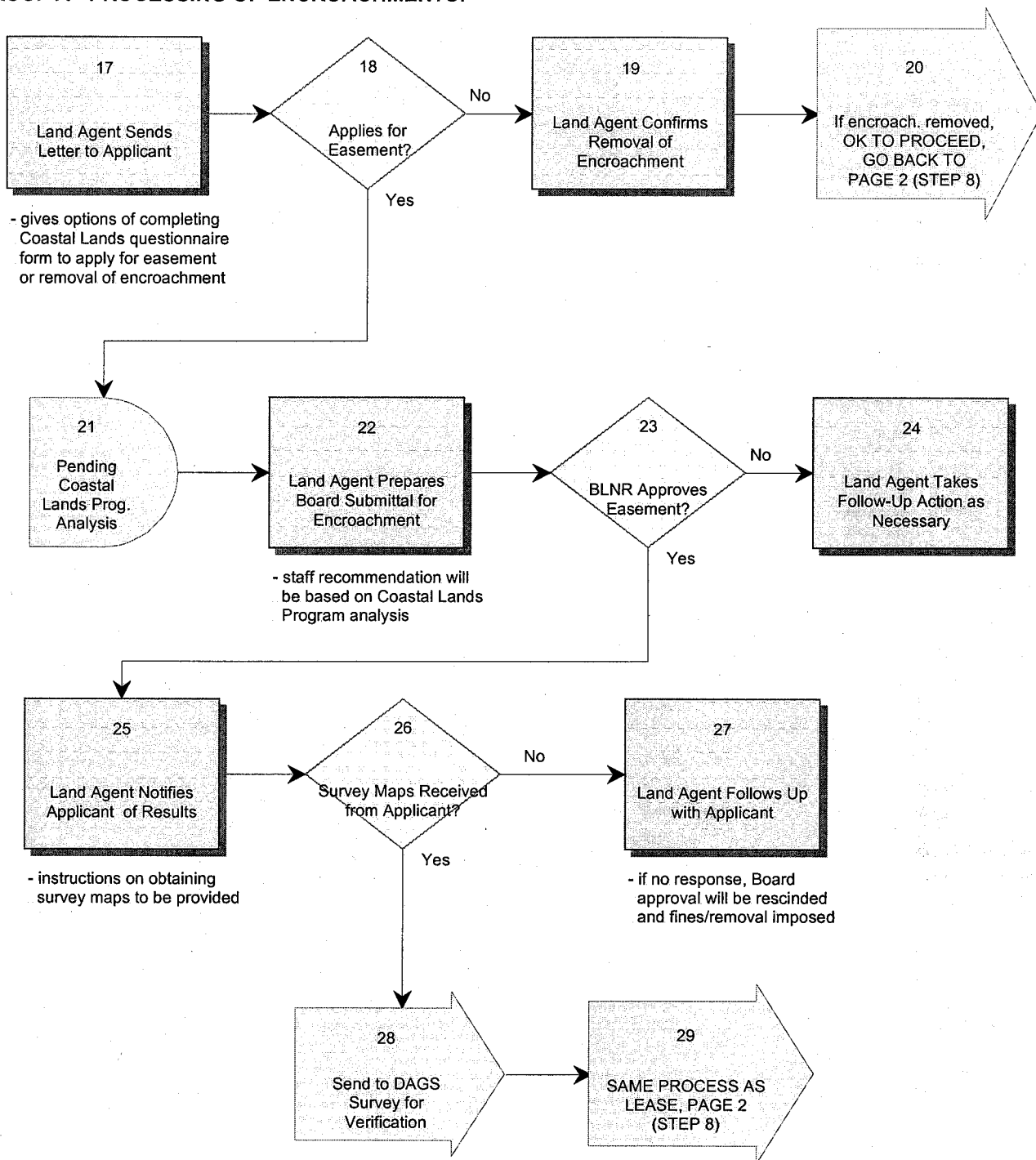
Revision Date: August 13, 2001



GROUP A - PROCESSING OF PIER LEASE:



GROUP A - PROCESSING OF ENCROACHMENTS:



Protect Our Shoreline Ohana

August 6, 2001

RECEIVED
LAND DIVISION
NATURAL RESOURCES
STATE OF HAWAII

TO: Mr. Gilbert S. Coloma-Agaran
Chair, BLNR
P.O. Box 621
Honolulu, Hawaii 96809

Mr. Harry M. Yada
Acting Administrator, DLNR Land Div.
P. O. Box 621
Honolulu, Hawaii 96809

CC: Windward: Senators
Bob Hogue
Bob Nakata

Representatives
Charles Djou
Ken Ito
Colleen Meyer
David Pendelton

POSO Negotiating Team: Dennis McCann David Nottage, Jr.
Roy Yanagihara Wadsworth Yee

Subject: Residential Noncommercial Piers - Kaneohe Bay Pier Amnesty Program

Reference: Letter dated July 24, 2001 - from Harry M. Yada

We understand that Act 261 passed by our 2000 legislature calls for direct negotiations on State submerged lands or lands beneath tidal waters for private residential noncommercial piers. The Board of Land & Natural Resources have been adopting policies without any negotiations with the pier owners. Our efforts to make changes at the Land Board Meetings have been unsuccessful.

Your early response on the following will be appreciated:

1. **METHODOLOGY;**

According to our records, the methodology to determine the lease is based on assumptions and predictions by staff. The State has no sales records of any submerged lands being sold for 50% of adjacent residential properties.

Why then did the Land Board adopt the 50% rate and putting the residential owners in the same category as commercial owners?

There has been no response to our request for copies of the appraisal taken to support the methodology used by the DLNR.

2. **HRS 171-17 calls for an appraisal to arrive at a fair market value!**

Instead of an appraisal of the submerged lands, the state uses the C/C annual property assessment of residential properties adjacent to the submerged lands. The State should study and learn from the 14 benchmarks used by the C/C and conduct their own appraisal and research.

EXHIBIT E

The State admits that the conservation submerged lands standing alone essentially have no value. The submerged lands have no demands aside from the adjacent pier owners.

It is like comparing a piece of gold next to a piece of rock. The rock will remain a rock with no value. The submerged lands gains value only when a pier is built on it. The pier is built and maintained by the owner and should not affect the lease rent.

The lease rent must be based on the submerged land before the pier is built!

3. **FULL PAYMENT OF LEASE UP-FRONT:**

It is common practice to pay lease annually. Why are we subjected to full lease payment up-front? Why is the annual payment option not available?

4. **FAIR AND EQUAL TREATMENT:**

For many years, the DLNR knew that only a few of us were paying rent and nothing was done to remedy the situation. Finally, we will stop paying rent beginning September 2001. Why did it take so long?

The pier owners who have been paying rent have complied with the law from the time they built their piers. We have met all of the requirements and now, we are required to pay additional expenses in order to get our lease. Why can't we just get a lease?

5. **ALTERNATIVE OPTIONS:**

We understand that those of us who have revocable permits can maintain our present status if we decide not to join the amnesty program.

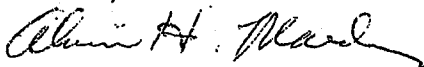
Will our rent remain the same? If not, what is the method to be used?

6. **OPINION FROM THE ATTORNEY GENERAL'S OFFICE:**

The decision on Methodology and other concerns are critical in arriving at a fair and equitable lease rent. We appreciate your effort to obtain credits for the pier owners now paying rent.

Our request for a meeting has been rejected by your staff. We have failed to negotiate. Are we also going to fail to communicate? We desperately need a public meeting to discuss the issues before us. Please set a date, time and a place for a public meeting!

Thank you!



Alvin H. Maeda
Protect Our Shoreline Ohana
45-215 Mahalani Circle
Kaneohe, HI 96744

Encl: Letter dated 7/24/01 - from Harry M. Yada

DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

2001 AUG - 9 P 1:57

RECEIVED
LAND DIVISION

[As amended by the Board of Land and Natural Resources]

**D29. ISSUANCE OF 150 LEASES FOR PRIVATE RESIDENTIAL
NONCOMMERCIAL PIERS PURSUANT TO THE KANEOHE
BAY PIERS AMNESTY PROGRAM, KANEOHE, KOOLAUPOKO,
OAHU; VARIOUS TAX MAP KEYS**

APPROVED AS AMENDED. The Board approved the submittal subject to the following amendments:

- (1) Recommendation 1(c) was amended to "A \$20 per sq. ft. performance bond shall be required on all dispositions whether by one time payment or annual lease rent.
- (2) Recommendation 3 was amended by making it subject to approval by the Chairman and the Department of the Attorney General.
- (3) A condition was added instructing staff to hold an informational meeting for all applicants to go over the implementation process.
- (4) Staff is instructed to provide the Board with a report on the results of the informational meeting.
- (5) The Board requested that staff report back to the Board on the status and process for non-residential piers.